

## ARTICLE 155

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### CROSS REFERENCES

Employees' pension fund - See 3rd Class §4340 et seq. (53 P.S. 39340 et seq.)  
Officers and employees - See ADM. Art. 117  
Employee compensation and fringe benefits - See ADM. Art. 123

Municipal Pension Plan Funding Standard and Recovery Act - Act 205  
(53 P.S. Sec. 895.101)

155.01 DEFINITIONS.

The following words and phrases, unless a different meaning is plainly required by the context, shall have the following meanings:

"Person" means an officer or employee of the City.

"Employee" means a person in the service of the City, who is eligible under the provisions of this article.

"Officer" means a person elected or appointed to City service.

"Board" means Officers' and Employees' Retirement Board.

"Fund" means Officers' and Employees' Retirement Fund.

"Compensation" means retirement allowance or compensation.

"Single coverage member" means an employee who is not covered by Social Security by reason of City employment.

"Joint coverage member" means an employee who is covered by Social Security by reason of City employment.

(Ord. 2213 §1. Passed 12/1/70.)

155.02 ESTABLISHMENT.

The retirement system shall be established on January 1, 1946, for all officers and employees of the city who are not protected by a pension authorized by ordinances in force on December 28, 1945. (Ord. 2213 §1. Passed 12/1/70.)

155.03 RETIREMENT BOARD.

Council creates an Officers' and Employees' Retirement Board, which shall consist of the following:

- (a) The Mayor.
- (b) The City Controller.
- (c) The Business Administrator.
- (d) The City Treasurer.
- (e) Two Employees elected by the Employees.

- (f) A retired Employee to be appointed by the Mayor, subject to confirmation by City Council. (Ord. 3639. Passed 10/4/94.)

A vacancy occurring during the term of an employee named in subsection (e) hereof shall be filled for the unexpired term by an employee chosen by the employees contributing to the Retirement Fund. Members of the Officers' and Employees' Retirement Board shall serve until their successors are elected in a manner approved by the Retirement Board. (Ord. 2213 §1. Passed 12/1/70.)

#### 155.04 ELECTION OF OFFICERS; REIMBURSEMENT.

- (a) The Mayor shall be Chairman of the Retirement Board. (Ord. 3392. Passed 2/19/91.)

(b) The members of the Officers' and Employees' Retirement Board shall serve without compensation, but shall be reimbursed for any necessary expenditures, and no contributor shall suffer loss of salary or wages through serving on the Officers' and Employees' Retirement Board. (Ord. 2213 §1. Passed 12/1/70.)

#### 155.05 DUTIES OF BOARD.

It shall be the duty of the Officers' and Employees' Retirement Board to receive and retain all monies received on behalf of the Officers' and Employees' Retirement Fund, and to invest and merge all Funds for investment purposes pursuant to the provisions of Article 156 of the Codified Ordinances of the City of Bethlehem. (Ord. 3141 §1. Passed 9/15/87.)

#### 155.06 RECORD OF PROCEEDINGS; PAYMENTS FROM FUND.

The Officers' and Employees' Retirement Board shall keep a record of all its proceedings, which shall be open to inspection by the public.

All payments from funds created by this article shall be made by check only, as authorized by the Retirement Board. No check shall be drawn except by order of the Retirement Board, duly entered in the record of its proceedings. (Ord. 2213 §1. Passed 12/1/70.)

**155.07 INTEREST IN INVESTMENTS; BORROWING FROM FUND.**

No person connected with the Retirement Board shall have any interest, direct or indirect, in the gains or profits of any investment made by the Retirement Board, nor, as such, directly or indirectly, receive any pay or emoluments for his services.

No person connected with the Retirement Board, directly or indirectly, for himself, or as an agent or partner of others, shall borrow any of its funds or deposits, or in any manner use the same, except to make such current and necessary payments as are authorized by the Retirement Board, nor shall any person connected with such Board become surety or become, in any manner, an obligor for monies loaned by or borrowed from the Retirement Board. (Ord. 2213 §1. Passed 12/1/70.)

**155.08 ALL BUSINESS TRANSACTED IN BOARD'S NAME.**

All of the business of the Officers' and Employees' System shall be transacted in the name of the Bethlehem Officers' and Employees' Retirement Board. (Ord. 2213 §1. Passed 12/1/70.)

**155.09 INFORMATION TO BE FURNISHED BY DEPARTMENT HEADS.**

Under the direction of the Retirement Board, the Business Administrator shall furnish such information, and shall keep such records, as the Board may require in the discharge of its duties. (Ord. 2213 §1. Passed 12/1/70.)

**155.10 PAYROLL DEDUCTIONS; PAYMENTS INTO FUND.**

There shall be deducted on every payroll of a single coverage member three percent of the total amount earned, and on every payroll of a joint coverage member three and one-half percent on that amount subject to Social Security deductions and five percent on the amount over and above the amount subject to Social Security deductions, which sum so deducted shall be applied to the purposes provided for by this article.

The City Treasurer shall pay each of the amounts so deducted into the treasury of the Officers' and Employees' Retirement Fund, and he shall transmit to the Secretary of

the Retirement Board, monthly, a detailed statement of all amounts so paid in. (Ord. 2213 §1. Passed 12/1/70.)

#### 155.11 APPROPRIATION BY COUNCIL FOR FUND.

Council shall annually set aside, apportion and appropriate out of all taxes and income of the City, into the Officers' and Employees' Retirement Fund, a sum sufficient to maintain the compensation due under this article. (Ord. 2213 §1. Passed 12/1/70.)

#### 155.12 VOLUNTARY RETIREMENT.

(a) Every person now or hereafter elected or appointed to an office of, or employed by, the City, as hereinafter provided, of the age of sixty years and upwards, who shall have so served as an officer or employee for a period of twenty years or more, shall upon application to the Board, be retired from service, and shall during the remainder of his life receive the compensation fixed by this article, subject to such qualifications as are hereinafter contained. (Ord. 2213 §1. Passed 12/1/70.)

(b) Any person who has served twelve years and voluntarily retires shall, by continuing his contributions for a total of at least twenty years and until the age of fifty-five years, whichever occurs last, be entitled to retirement compensation at age sixty.

(c) During the lifetime of any such person, he shall be entitled to receive as a compensation annually from the Retirement Fund set aside for the purpose, for each year of service, two and one-half percent (2-1/2%) up to a maximum of fifty-seven and one-half percent (57-1/2%) of the amount which would constitute the average annual salary or wages for the current year or any five years of his service for the City, whichever is the higher. The compensation shall be paid in monthly installments. In the case of joint coverage members this benefit shall be reduced by an amount equal to forty percent (40%) of Social Security benefits earned while in the employ of the City, unless the off-set has been removed as provided by ordinance. (Ord. 2349 §1,2. Passed 2/6/73; Ord. 3990. Passed 2/15/00.)

#### 155.13 INVOLUNTARY TERMINATION OF SERVICE.

Where an officer or employee of the City shall have served for twelve years or

more and his tenure of office or employment shall be terminated without his voluntary action before the expiration of twenty years of service, he shall, in such event, during the remainder of his life after reaching age sixty, be entitled to receive such portion of the full compensation as the period of his service up to the date of its termination bears to the full twenty-year period of service. Where an officer or employee who has served for twenty years or more and his tenure of office or employment shall be terminated without his voluntary action, then he shall be entitled to full compensation for the remainder of his life, after reaching age sixty. (Ord. 2213 §1. Passed 12/1/70.)

#### 155.14 PERMANENT DISABILITY.

Should an officer or employee become so permanently disabled as to render him unable to perform the duties of his position or office after fifteen years of service, he shall be entitled to full compensation during such disability. Proof of such disability shall consist of the sworn statement of three practicing physicians that the employee is in a condition of health which would permanently disable him from performing the duties of his position or office. Such person shall thereafter be subject to physical examination at any reasonable time upon order of the Board. Upon his refusal to submit to such examination, his compensation shall cease. (Ord. 2213 §1. Passed 12/1/70.)

#### 155.15 OPTIONAL SPOUSE'S BENEFIT.

Any officer or employee entitled to compensation hereunder shall have the option, to be exercised, if at all, at the time of his/her eligibility for benefits, to elect to have his/her benefit continued after his/her death, payable to his/her spouse for the spouse's life. The benefit may be continued at fifty (50%) percent, sixty-seven (67%) percent, seventy-five (75%) percent, or one hundred (100%) percent of the benefit payable to the officer or employee. If such election is made, the benefit payable will be reduced to the actuarial equivalent, as determined by the actuary providing services to the City of Bethlehem Pension Funds, of the benefit otherwise payable to the officer or employee, based upon his/her age and the age of his/her spouse. (Ord. 3639. Passed 10/4/94.)

#### 155.16 CONTRIBUTIONS REQUIRED FOR TWENTY YEARS.

Before any compensation may be granted to an officer or employee of the City

who has not been a contributor to the Retirement Fund, as herein provided, for a minimum period of twenty years, such person shall be required to pay into the Officers' and Employees' Retirement Board, for the benefit of the Fund, monthly, an amount equal to the required percentage of his compensation at the time of his retirement until such time as his contributions shall have been extended to a period of twenty years. (Ord. 2213 §1. Passed 12/1/70.)

#### 155.17 RETURN OF CONTRIBUTIONS WITHOUT INTEREST.

If for any cause any officer or employee contributing to the Retirement Fund shall cease to be in the service of the City before he becomes entitled to any compensation, the total amount of the contributions paid into the Fund by him shall be refunded, in full, without interest, provided however, that if any such person shall have returned to him the amount contributed, as aforesaid, and shall afterwards reenter the service of the City, he shall not be entitled to reinstatement in the Fund. In the event of the death of any officer or employee of the City after he becomes entitled to any compensation and has not elected to retire, the total amount of contributions paid into the Fund by him shall be paid over to his estate without interest. In the event of the death of any officer or employee of the City after he has elected to retire and has been granted compensation, the excess of the total amount of contributions paid into the Fund by him over the total amount of compensation paid to him during retirement, if any, shall be paid over to his estate without interest. (Ord. 2908. Passed 9/15/83.)

#### 155.18 APPLICATION OF BENEFITS.

The benefits conferred by this article shall apply to all persons employed in any capacity by, or holding positions in, the City in accordance with its provisions, except as hereinafter provided. (Ord. 2213 §1. Passed 12/1/70.)

#### 155.19 COMPUTATION OF TIME OF SERVICE.

The time of service specified in this article shall be computed from the time of the first or original service to the City and need not be continuous. (Ord. 2213 §1. Passed 12/1/70.)

#### 155.20 PENSIONS NOT SUBJECT TO EXECUTION, ATTACHMENT OR ASSIGNMENT.

The compensation herein mentioned shall not be subject to attachment or execution, and shall be payable only to the beneficiary designated by this article, and shall not be subject to assignment or transfer. (Ord. 2213 §1. Passed 12/1/70.)

#### 155.21 TERMINATION DATE OF ADMISSION INTO SYSTEM.

Effective August 1, 1978, membership in the Officers' and Employees' Retirement and Pension System shall be closed, and all officers and employees not admitted to be members on this date shall be ineligible for membership. (Ord. 2621 §1. Passed 8/15/78.)

#### 155.22 BEGINNING DATE OF ADMISSION INTO SYSTEM.

The City, having placed all its employees, beginning January 1, 1964, under the Federal Social Security Act, including present employees of the Bethlehem Public Library System, as far as they are eligible, hereby elects to join the Municipal Employees' Retirement System as established by the Act of June 4, 1943 (P.L. 886), as last amended by the Act of September 23, 1959 (No. 390), and does hereby agree to be bound by all the requirements and provisions of the Act, and to assume all obligations, financial and otherwise, placed upon member municipalities by the Act. However, membership for elected officials shall be optional at the discretion of such officials, and membership for employees of the City, including employees of the Bethlehem Public Library System, paid on a per diem basis, shall be prohibited. (Ord. 2213 §1. Passed 12/1/70.)

#### 155.23 CREDIT FOR PRIOR SERVICE (LIBRARY EMPLOYEES).

Credit for prior service toward the municipal annuity of each original member shall be for ten years of service prior to January 1, 1964, rendered to the Bethlehem Public Library System. (Ord. 2213 §1. Passed 12/1/70.)

#### 155.24 PAYMENT FOR PRIOR YEARS OF SERVICE (LIBRARY EMPLOYEES).

Payment for prior years of service noted in Section 155.23 shall be made by the City from funds contributed by the Trustees of the Bethlehem Public Library for that



purpose in a lump sum payment, in accordance with Section 14 of the Act of June 4, 1943 (P.L. 886), as amended. (Ord. 2213 §1. Passed 12/1/70.)

#### 155.25 STATE LAW INCORPORATED.

The City does hereby incorporate the Municipal Employees' Retirement Law of the Commonwealth of Pennsylvania, Act of June 4, 1943, P.L. 886 as amended, as part of this article insofar as the Act applies to a member municipality. (Ord. 2213 §2. Passed 12/1/70.)

#### 155.26 ELIMINATION OF SOCIAL SECURITY OFFSET BY JOINT COVERAGE MEMBERS.

In accordance with the authority granted by various acts of the legislature of the Commonwealth of Pennsylvania (as codified in 53 P.S. §39374) and on the recommendation of the Officers' and Employees' Retirement Board of the City, permission is hereby given to any joint coverage member of the Officers' and Employees' Retirement System to elect to receive pension benefits without the reduction by an amount equal to forty percent of social security benefits provided that:

(a) No later than December 31, 1972 in the case of retired members of the Officers' and Employees' Retirement Fund, the member shall make a lump sum payment to the Officers' and Employees' Retirement Fund equal to the difference between the amount of the accumulated fund to his credit in such fund as of the last day for which salary or wages was paid, and the amount which would have been to his credit in such fund if contributions had been made by him on the portion of his salary or wages on which social security allowances are payable at the same rate as made on that portion of his salary or wages in excess thereof from the time that such salary or wages became subject to social security coverage. Notwithstanding the foregoing sentence those former employees of the City whose employment with the City was terminated prior to December 1972 and who received no notice of Bill 45, 1972 which established the procedure for employees to eliminate the Social Security Offset, which shall be permitted up to June 30, 1973 to take advantage of the provisions of Bill 45, 1972. (Ord. 2370 §1. Passed 4/3/73.)

(b) Where a joint-coverage member of the Fund is still active in the employ of the City, and elects to receive pension benefits without the reduction by an amount

equal to forty percent of social security benefits, such member shall notify the Officers' and Employees' Retirement Fund by December 31, 1972 of such election and shall make a payment to the Officers' and Employees' Retirement Fund, calculated on the same basis as set forth in subsection (a) hereof, either by lump sum payment without additional charges or by biweekly payments to the Fund during the period from January 1, 1973 to December 31, 1973 with a charge of three and one-half percent of the amount due being added to the payment required.

(c) Such election shall be made in writing, in the form prescribed by the Officers' and Employees' Retirement Board, and shall be accompanied by the payment herein required or an authorization for payroll deduction in the case of active members still in the employ of the City who do not choose to make lump sum payments.

(d) The member who makes this election prior to retirement shall, in addition to any payments required, pay thereafter to the Officers' and Employees' Retirement Board contributions on his entire salary or wages thereafter received at the rate of five percent. (Ord. 2329 §1-3. Passed 11/28/72.)

#### 155.27 ADMINISTRATIVE EXPENSES.

Administrative expenses associated with the Pension Fund may be paid from the Fund, providing the following three conditions are satisfied:

(1) The administrative expense must be directly associated with the Pension Plan.

(2) The members of the Pension Board must be informed and satisfied that the expenses are necessary, reasonable and have been incurred for the benefit of the Pension Plan.

(3) The expenses must be detailed and itemized. (Ord. 3141 §2. Passed 9/15/87.)

#### 155.28 ELIMINATION OF SOCIAL SECURITY OFFSET BY ACTIVE JOINT COVERAGE MEMBERS.

In accordance with the authority granted by various acts of the legislature of the

Commonwealth of Pennsylvania (as codified in 53 P.S. §39374) and on the recommendation of the Officers' and Employees' Retirement Board of the City, permission is hereby given to any active joint coverage member of the Officers' and Employees' Retirement System to elect to receive pension benefits without the reduction by an amount equal to forty percent of social security benefits provided that:

(a) Where a joint-coverage member of the Fund is still active in the employ of the City, and elects to receive pension benefits without the reduction by an amount equal to forty percent of social security benefits, such member shall notify the Officers' and Employees' Retirement Fund by December 31, 2001 and shall make a lump sum payment to the Officers' and Employees' Retirement Fund equal to the difference between the amount of the accumulated fund to his credit in such fund as of the last day for which salary or wages was paid, and the amount which would have been to his credit in such fund if contributions had been made by him on the portion of his salary or wages on which social security allowances are payable at the same rate as made on that portion of his salary or wages in excess thereof from the time that such salary or wages became subject to social security coverage.

(b) Any active joint-coverage member of the Fund electing by December 31, 2001 to receive pension benefits without the reduction by an amount equal to forty percent of social security benefits may elect to pay the amount calculated on the basis set forth in subsection (a) by making biweekly payments to the Fund during the period from January 1, 2002 to December 31, 2002 with a charge of three and one-half percent of the amount due being added to the payment required.

(c) Such election shall be made in writing, in the form prescribed by the Officers' and Employees' Retirement Board, and shall be accompanied by the payment herein required or an authorization for payroll deduction in the case of active members still in the employ of the City who do not choose to make lump sum payments.

(d) Any active member who makes this election shall, in addition to any payments required, pay thereafter to the Officers' and Employees' Retirement Board contributions on his entire salary or wages thereafter received at the rate of five percent.

(Ord. 4102. Passed 12/4/01)